

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FREE SPEECH COALITION,
INC. *et al.*,

Plaintiffs,

V.

THE HONORABLE ERIC H.
HOLDER, JR., Attorney General,

Defendant.

Civil Action No. 2:09-4607

Motion for Leave to File Proposed Brief *Amici Curiae* United States Representatives Thaddeus McCotter, Todd Akin, Rob Bishop, Dan Burton, Jason Chaffetz, Michael Conaway, John Fleming, Randy Forbes, Phil Gingrey, Louie Gohmert, Bob Inglis, Steve King, Robert Latta, Don Manzullo, Kenny Marchant, Jerry Moran, Mike Pence, Joe Pitts, Bill Posey, Tom Rooney, Jean Schmidt, John Shimkus, Todd Tiahrt and of the American Center for Law and Justice, in Support of Defendant's Motion to Dismiss

Movants, the American Center for Law and Justice and United States Representatives Thaddeus McCotter, Todd Akin, Rob Bishop, Dan Burton, Jason Chaffetz, Michael Conaway, John Fleming, Randy Forbes, Phil Gingrey, Louie Gohmert, Bob Inglis, Steve King, Robert Latta, Don Manzullo, Kenny Marchant, Jerry Moran, Mike Pence, Joe Pitts, Bill Posey, Tom Rooney, Jean Schmidt, John Shimkus, and Todd Tiahrt, respectfully move this Court for leave to file the accompanying brief *amicus curiae* in support of Defendants.

POINTS AND AUTHORITIES SUPPORTING THE MOTION

I. INTEREST OF *AMICI*

The American Center for Law and Justice (ACLJ) is a public interest law firm committed to insuring the ongoing viability of constitutional freedoms in accordance with principles of justice. ACLJ attorneys have argued or participated as amicus curiae in numerous cases involving constitutional issues before the Supreme Court of the United States and lower federal courts.

The ACLJ is dedicated to defending families against efforts to undermine their importance, integrity, and well-being. Moreover, the ACLJ is committed to supporting appropriate efforts by Congress and the States toward the creation and sustenance of a social order that supports the important work of families: the rearing and protection of children. The proper resolution of this case is a matter of substantial organizational concern to the American Center for Law and Justice because of the ACLJ's commitment to American families.

This brief is also filed on behalf of United States Congressmen Thaddeus McCotter, Todd Akin, Rob Bishop, Dan Burton, Jason Chaffetz, Michael Conaway, John Fleming, Randy Forbes, Phil Gingrey, Louie Gohmert, Bob Inglis, Steve King, Robert Latta, Don Manzullo, Kenny Marchant, Jerry Moran, Mike Pence, Joe Pitts, Bill Posey, Tom Rooney, Jean Schmidt, John Shimkus, and Todd Tiahrt. These amici currently are members of the United States House of

Representatives in the One Hundred Eleventh Congress. They believe that the age verification requirements of 18 U.S.C. §§2257 and 2257A pose no threat to the First Amendment, and that this Court should follow the Courts of Appeals for the District of Columbia and the Sixth Circuits in upholding them.

II. WHY AN *AMICUS* BRIEF IS DESIRABLE AND WHY THE MATTERS ASSERTED ARE RELEVANT TO THE DISPOSITION OF THE CASE.

The ACLJ possesses expertise in First Amendment law and analyzes the relevant case law to demonstrate that the Court should resolve these vital constitutional issues in favor of the Defendant and dismiss Plaintiffs' complaint.

Amici take the position that the age verification requirements of 18 U.S.C. §§2257 and 2257A pose no threat to the First Amendment, and that this Court should follow the Courts of Appeals for the District of Columbia and the Sixth Circuit in upholding them. Sections 2257 and 2257A serve the paramount government interest of eradicating child pornography. Given the pornography industry's use of very young looking performers, there is no more effective means of ensuring that the industry does not employ minors. Sections 2257 and 2257A do not burden Plaintiffs' free speech rights any more than the record-keeping requirements imposed by numerous other federal laws governing employer/employee relations.

CONCLUSION

WHEREFORE, this court should grant the present motion and allow *amici* to file the accompanying brief *amici curiae*.

Respectfully submitted this 9th day of March, 2010,

/s/ James N. Clymer

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March 9, 2010.

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2010, I electronically filed a copy of the foregoing Motion for Leave to File Brief *Amicus Curiae* of the American Center for Law and Justice, *et al.* using the ECF System for the Eastern District of Pennsylvania, which will send notification of that filing to all counsel of record in this litigation.

/s/ James N. Clymer

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Counsel for Amici